

# MORAL ADVOCATE.

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"On Earth, peace, good will towards men."

NO. 6. MOUNTPLEASANT, OHIO, TWELFTH MONTH, 1822. VOL. 2.

## Errata.

The last number contained a notice that I should be absent on a journey of a few weeks. I left home before the proof-sheet was corrected, and have been much mortified that several capital errors escaped notice: the most material of which occurred in paging and folding the last half of the sheet. The page that is 71 should be 75, and 87 should be 78. In page 76, second column and 40th line, for *invulnerable*, read *invincible*.

Several other errors also escaped notice, but they do not effect the meaning. They are, however, to be regretted, but a hope is entertained that similar accidents will not occur in future.

## SELF DEFENCE.

*Police Court—City of Boston.*

"On Monday a complaint was made against two persons for an affray in the street, and the court ordered both to be brought to their bar. Only one, by name John Larrabee, could be found; he was brought into Court, the charge proved against him, and he was fined for disturbing the peace by fighting.

"We learn that the Police Court have adopted a new principle with regard to such offences, which will be highly conducive of good order. The practice before this time has been to punish only the first aggressor, and let the other escape punishment. Yet in many cases the latter, though he did not commit the first overt act, not unfrequently did more to disturb the peace than the former. The principle now adopted by the court is, to punish *both* parties, when it is proved that the one who is attacked, not only acted in self defence but

continued the contest, and voluntarily fought after the first onset was made by the other party. *Columbian Centinel*—9th mo. 4.

*Remarks by the Editor of the Friend of Peace.*

In this document we have a ray of light which may conduct reflecting men to such enquiries & conclusions as will extend its benign influence for the good of the world. The barbarous principle that the first aggressor in a bloody quarrel, is accountable for all the evils which ensue, has been the source of innumerable mischiefs and crimes. It has licenced the vilest passions of malignity and revenge in the person or party assailed, and lead people to imagine that the most atrocious acts of violence and outrage may be innocently perpetrated in retaliation of an injury. It seems to have been supposed that an aggressive act of violence absolves the injured party from all moral obligations to seek the good of the aggressor. Hence it is no uncommon thing for a small injury to be retaliated by one of far greater magnitude, proceeding from that spirit of revenge which is directly forbidden by the Gospel. Nor is it uncommon for the person who retaliates an injury, to render himself far more guilty than the aggressor. With great propriety, therefore, the Police Court has determined to punish *both* parties, when it is proved that the one who was attacked, not only acted in self defence, but continued the contest, and voluntarily fought after the first onset was made.

The principle now adopted by the court may throw light on the subject of national hostilities, and help to dispel a fatal delusion which has long prevailed. Ever since it was admit-

ed that the aggressor in war is a murderer, great exertions have been made by the promoters of war in each nation to have it believed by those of their own party, that the other was the aggressor. This being effected, the troops on each side eagerly proceed to the work of robbery and murder, fancying that all the guilt of their own abominable deeds will be charged to the account of the other party. But it has been discovered that in cases of private combats, both parties may equally deserve punishment, it will be easy to infer that such may be the case in public wars.

'The principle now adopted by the court is to punish *both* parties, when it is proved that the one who was attacked, not only acted in self defence, but continued the contest and *voluntarily* fought after the first onset was made by the other party.' On this principle how deeply are both parties uniformly involved in guilt in all public wars!

One nation is guilty of an act of aggression or war on another. This is murderous. But the other party not only acts in self defence, repelling the attack—but voluntarily proceeds to imitate the offender by acts of aggression on some parts of his dominions, perhaps hundreds or thousands of miles from the first place of assault—and on a people who had never done or wished him any wrong. Thus the work of rapine and butchery is carried on by the two parties, with mutual and alternate aggression and defence; and each blindly glories in his own acts of barbarity and violence—and each justly accuses the other of the atrocious crimes of robbers and pirates.

By far the greater portion of people in christian nations would shudder at the thought of becoming private robbers or murderers. But having been educated in the belief that defensive war is not only just but glorious, they aid in the wars of their country without any scruples of con-

science. For the people of each nation are told that all the wars waged by their rulers are defensive, just and necessary; and they have not been in the habit of reflecting on the manner in which wars are, on both sides, conducted. We may therefore be very sure, that conscientious men, when they shall have duly reflected on the justice of the principle adopted by the police court, will cease to be advocates for public wars.

For an illustration of the subject, a case may be stated:—Yesterday, in a gust of passion, Richard gave Patrick a blow with his cane, and then desisted from any further attempt to injure him. To-day, Patrick, armed with a dagger for the purpose, meets Richard and stabs him to the heart. Patrick is arrested and brought before the court for trial. He owns that he killed Richard, but pleads that he did it in necessary self defence. The court, however, regard his conduct as deliberate murder. Such atrocious acts of premeditated revenge and slaughter, multiplied a thousand fold, are what nations have called acts of defensive war—with this difference, however, that these evils of revenge are commonly inflicted, not on the person of the aggressor, but on his unoffending subjects. Had Patrick, instead of killing Richard, killed thirty or forty of Richard's innocent relatives or servants, his conduct would have been a more perfect miniature of the defensive wars of rulers.

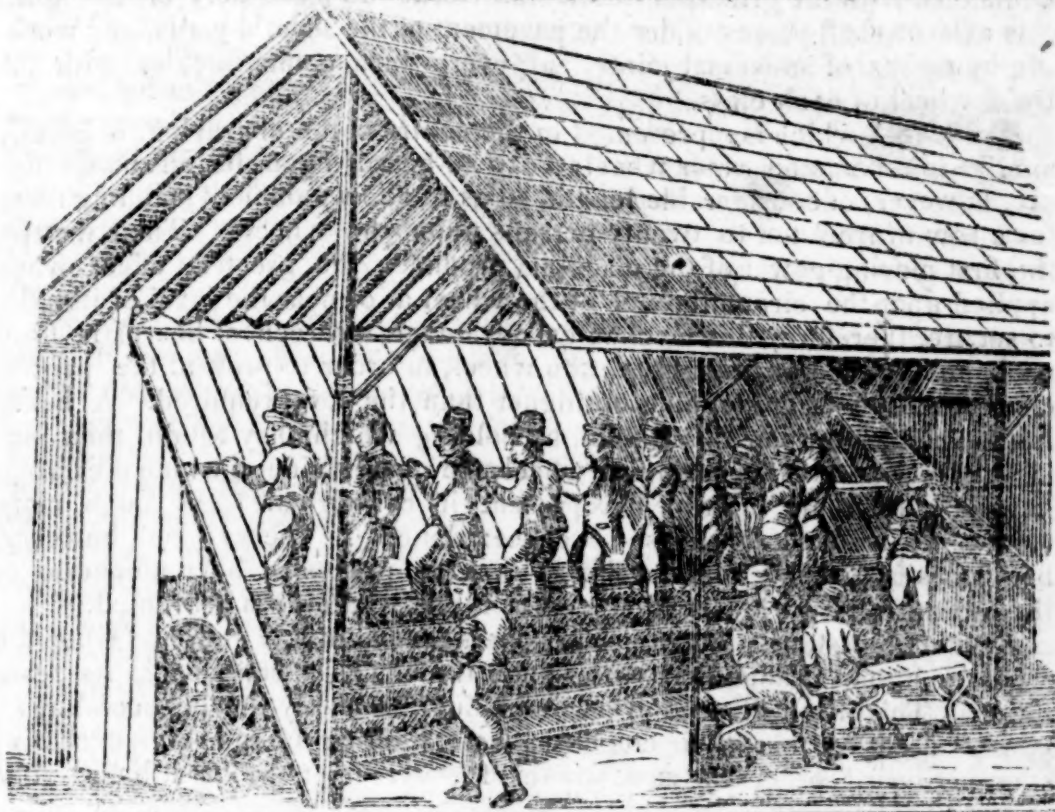
Now who is so blind as not to see that, on either supposition, Patrick is guilty of murder? and that on the supposition of his having killed the friends and servants, he is as really an aggressor and a murderer, as though no offence had been given by Richard on the preceding day?

Shall then Christians, with the Gospel in their hands, continue to call such acts of revenge, inflicted on the unoffending, justifiable and defensive war? Shall they continue to glory in

such manifest barbarity, injustice and murder? Shall they any longer believe that Rulers have a right to do or to authorize such abominable deeds?

When the principle adopted by the police court shall have been properly extended and applied, with what astonishment and horror will men re-

flect on the scenes of rapine and carnage which have been produced by the pretended defensive wars of Christendom! How will they lament that bewildering fanaticism which has given unbounded celebrity to crimes, at which pirates might blush, and the highest share of renown to the greatest murderers of our race!



#### DESCRIPTION OF THE TREAD MILL,

*Recommended by the Society for the Improvement of Prison Discipline.*

The attention of the Society for the Improvement of Prison Discipline has long been devoted to the adoption of some plan for the effectual employment of prisoners. All attempts of this nature have heretofore been attended with considerable difficulty, but it is confidently anticipated that this invention will not only afford suitable employment, but act as a species of preventive punishment. Although but very recently introduced into practice, the effects of its discipline have in every instance proved highly useful in decreasing the number of commitments; as many prisoners have been known to declare that they would sooner undergo any species of fatigue, or suffer any deprivation, than return to the house of correction, when once released.

The annexed engraving exhibits a party of prisoner in the act of working one of the tread wheels of the Discipline Mill, invented by Cubit, of Ipswich, and recently erected at the House of Correction for the Coun-



ty, of Surrey, situated at Brixton. The view is taken from a corner of one of the ten airing yards of the prison, all of which radiate from the Governor's house in the centre, so that from the window of his room *he commands a complete view into all the yards.*—A building behind the tread wheel shed is the mill house, containing the necessary machinery for grinding corn and dressing the flour, also rooms for storing it, &c. On the right side of this building a pipe passes up to the roof, on which is a large cast iron reservoir, capable of holding some thousand gallons of water, for the use of the prison. This reservoir is filled by means of forcing pump machinery below, connected with the principal axis which works the machinery of the mill; this axis or shaft passes under the pavement of the several yards, and working by means of universal joints, at every turn communicates with the tread wheel of each class.

The wheel, which is represented in the centre of the engraving, is exactly similar to a common water wheel; the tread-boards upon its circumference are, however, of considerable length, so as to allow sufficient standing room for a row of from ten to twenty persons upon the wheel\*. Their weight, the first moving power of the machine, produces the greatest effect when applied upon the circumference of the wheel at or near the level of its axle; to secure, therefore, this mechanical advantage, a screen of boards is fixed up in an inclined position above the wheel, in order to prevent the prisoners from climbing or stepping up higher than the level required. A hand-rail is seen fixed upon this screen, by holding which they retain their upright position upon the revolving wheel; the nearest side of which is exposed to view in the plate, in order to represent its cylindrical form much more distinctly than could otherwise have been done. In the original, however, both sides are closely boarded up, so that the prisoners have no access to the interior of the wheel, and all risk of injury whatever is prevented.

By means of steps, the gang of prisoners ascend at one end, and when the requisite number range themselves upon the wheel, it commences its revolution. The effort, then, to every individual, is simply that of ascending an endless flight of steps, their combined weight acting upon every successive stepping-board, precisely as a stream of water upon the float-boards of a water-wheel.

During this operation, each prisoner gradually advances from the end at which he mounted towards the opposite end of the wheel, from the last man, taking his turn, descends for the rest (see the plate) another prisoner immediately mounting as before to fill up the number required, without stopping the machine. The interval of rest may then be portioned to each man, by regulating the number of those required to work the wheel with the whole number of the gang;—thus if twenty out of twenty-four are obliged to be upon the wheel, it will give to each man intervals of rest, amounting to twelve minutes every hour of labour. Again, by varying the number of men upon the wheel or the work inside the mill, so as to increase or diminish its velocity, the degree of hard labour or exercise to the prisoner may also be regulated.

At Brixton, the diameter of the wheel being 5 feet, and revolving twice in

\* The wheels erected at the House of Correction at Coldbath-fields, are each capable of containing forty or more prisoners, and the joint force of the prisoners is expended in giving motion to a regulating fly, which, by expanding itself in proportion to the power, will keep any number of men, from twenty to three hundred and twenty, at the same degree of hard labour!

a minute, the space stepped over by each man is 2193 feet, or 731 yards per hour.

To provide regular and suitable employment for prisoners sentenced to hard labor, has been attended with considerable difficulty in many parts of the kingdom; the invention of the Discipline Mill has removed the difficulty, and it is confidently hoped, that as its advantages and effects become better known, the introduction of the mill will be universal in Houses of Correction. As a species of prison labour, it is remarkable for its simplicity. It requires no previous instruction; no task-master is necessary to watch over the work of the prisoners; neither are materials or instruments put into their hands that are liable to waste or misapplication, or subject to wear and tear; the internal machinery of the mill, being inaccessible to the prisoners, is placed under the management of skilful and proper persons, one or two at most being required to attend a process, which keeps in steady and constant employment from ten to two hundred or more prisoners at one and the same time, which can be suspended and renewed as often as the regulations of the prison render it necessary, and which imposes equality of labour on every individual employed, no one upon the wheel being able, in the least degree, to avoid his proportion.

The arrangement of the wheels in the yards radiating from the Governor's central residence, places the prisoners thus employed under very good inspection, an object known to be of the utmost importance in prison management. At the Brixton House of Correction, with the exception of the very few confined by the casualties of sickness or debility, all the prisoners are steadily employed under the eye of the Governor during a considerable part of the day.

The *classification*, also, of the prisoners, according to offences, &c. may be adhered to in the adoption of these discipline wheels; the same wheel or the same connected shafts can be easily made to pass into distinct compartments in which the several classes may work in separate parties. In the prison from which the annexed drawing is taken, a tread-wheel is erected in each of the six yards, by which the inconvenience and risk of removing a set of prisoners from one part of the prison to another is obviated.

As the Mechanism of these Tread-Mills is not of a complicated nature, the regular employment they afford is not likely to be frequently suspended for want of repairs to the machinery; and should the supply of corn, &c. at any time fall off, it is not necessary that the labour of the prisoner should be suspended, nor can they be aware of the circumstance; the supply of hard labour may therefore be considered as almost unfailing.

With regard to the expense of these mechanics, it may be observed, that although their original cost may, in some instances, appear heavy, the subsequent advantage from their adoption, in point of economy, is by no means inconsiderable, and it is derived in a manner which must be most satisfactory to those who have the important charge and responsible control of these public establishments, viz. from the diminution in the number of persons committed. Such have been the results already experienced at those prisons where this species of corrective discipline is enforced. The saving to the county (in consequence of the reduction in the number of criminals) in the public charges for their apprehension, committal, conviction and maintenance, cannot but be considerable.

It is unnecessary to occupy much time in proving the advantage which the invention of the Stepping Mill presents as a species of *preventive punishment*. Although but very recently introduced, and hitherto but sparingly

brought into action, the effects of its discipline have, in every instance, proved eminently useful in decreasing the number of commitments. As a corrective punishment, the discipline of the Stepping Mill has had a most salutary effect upon the prisoners, and is not likely to be easily forgotten; while it is an occupation which by no means interferes with, nor is calculated to lessen the value of, those branches of prison regulation which provide for the moral and religious improvement of the criminal.

By a contrivance of machinery which we cannot here illustrate by a plate:

"When the machinery of the mill has attained its proper speed, certain balls rise by their centrifugal force, so as to draw a box below the reach of a bell handle, which will then cease to ring a bell, placed in some convenient situation for the purpose. But should the men at the wheels cease to keep up the requisite speed in the mill work, the balls will descend, and a projecting pin on the box, striking the handle, placed in the proper situation for that purpose, will continue to ring the bell till they go on again properly; and, by this means, a certain check will be kept on the labourers, and the governor or task master apprized, even at a distance, that the full work is not performed.

### *Turkish Declaration of War.*

The German papers have published the following curious declaration of war, issued in 1663 by Mahomet IV. against Leopold, emperor of Germany.

"By the grace of God, the great God in heaven, we, Molo Mahomet, god of the earth, renowned and powerful emperor of Babylon and Judea from the rising to the setting of the sun, king of all earthly kings, mighty ruler of Arabia and Mauritania, born triumphant sovereign of Jerusalem, possessor of the tomb of Christ the crucified, declare to thee, emperor of Germany, to thee, king of Poland, and to all the chiefs of thy land, as well as to the pope of Rome, his cardinals and bishops, that we are resolved to attack thee with thirteen kings, 1,300,000 men on horseback and on foot, with Turkish courage unknown to thee and thine. We will visit thee in Vienna, thy capital, and pursue thee, and the king of Poland and all thy allies, sword in hand, burning, plundering; murdering and destroying thy country and subjects. As for thee, thou shalt suffer the most horrible death that can be imagined. As thy government is weak and cruel, even among christians, we will wrest from thee, with fire and sword, thy empire and kingdom, and likewise overthrow and annihilate the see of Rome and its triple crown.

"This, emperor of Germany, and king of Poland, is our declaration to thee and

to all thy dependents, and we moreover inform thee that these words will speedily be followed by deeds, for which thou hast to hold thyself in readiness.

"Given in our powerful city Stamboul: containing 1,659 streets, 90 hospitals; 1,000 public baths, 997 fountains, 120 markets, 115 stables for mules, 480 inns for foreigners, 1,652 great and small schools, 4,122 mosques and churches. This great and powerful city is four German miles in circumference, and on its walls are 360 strong towers. Our ancestors, wrested it from the hands of the christians, whose wives and children were murdered before their eyes. Thus will we treat thee and all christians, to prove our hatred and disdain.

"Given in the 25th year of our age and the 7th of our potent reign.

(Signed) "MOLO MAHOMET."

The foregoing declaration of war will, probably excite the smile of contempt, and yet it is doubtful, if the motives and expectations entertained by those who make war, were always honestly and fully disclosed, whether we should ever meet with any that would look better on paper.

Ed.

### *Crimes.*

The population of France is about 29 millions—that of England is 10. In 1817, the total convictions for crimes in



France was 9,431—in England 9,056; condemnations to death in France 558; in England 1,302; in 1818, no more than 324 persons were sentenced to death in France, but in England they amounted to 1,254. France has nearly three times the population of England, yet furnished only a bare majority of convictions, and a fourth part as many sentences of death. *Niles.*

The Society of Christian Morals in Paris may be regarded as one of the most important Institutions of the present age. Its objects are various, but all of a benevolent and philanthropic character. It is a Society for the diffusion of Christian Sentiments and Morals—for the Abolition of the Slave Trade, and for the Promotion of Peace on earth

— F. of Peace.

Extracts from the speech of the Duke de la Rochefoucauld Liancourt, to the Society of Christian Morals.

Gentlemen.—Some good men, impressed with the evident truth, that the most admirable code of religious precepts, of justice, of reason, and of social order, is to be found in the system of christian morals, have formed themselves into a Society for the dissemination of these exalted principles, to carry them into effect, and to extend them to all the social relations of life.

Witnesses of the dissensions which agitates the world, they have considered it as the duty of the friends of peace to unite their efforts for restoring harmony among men by the diffusion of light and knowledge. And from what source more certain and infallible could they derive it, than from that heavenly morality which alone, of things divine and human, has never produced animosity or contention, which is approved, venerated, and loved by varying nations, which is founded on our most pressing necessities, and which may be called the perfection of reason; from that morality, attractive by its simplicity, sweet and consoling in its principles, which counsels and enjoins men to love one another, to help and succor each other, and which places among our most imperative duties the exercise of the most delight-

ful sentiment which God has impressed upon our hearts.

With such a guide, from which it would never stray, this new Society hopes never to err in its progress. Pure in its principles, not less prudent than zealous in its conduct, it will never forget that the morality to which it would call the attention of mankind, directs it to endeavor to maintain among them the mutual and constant harmony emanating from that reciprocal love which the Creator has proclaimed to be the primary duty of man, because it is the principle on which his happiness depends.

The society warmly embraces this truth; that man is placed in the world only to do good, that such is the end of his being; it is his duty, and at the same time his most certain means of happiness. Wretched indeed, Gentlemen, are they whose hearts do not feel this appeal; they must be deprived of the sweetest of enjoyments; of that enjoyment, which is not limited to any age or situation of life, which is even a consolation under misfortune, and the certain recompence of those who are employed in the welfare of their fellow-men.

*Penitentiaries.*

The tread wheel, for the employment of criminals is given in this number. Where classification is adopted, the tread mill will, no doubt, combine *punishment* with *employment*. But I confess there are doubts in my mind on the propriety of classification at all. It will be impossible, I think, to guard against introducing corrupting individuals into the several classes. Even granting that the managers of the Penitentiaries could always judge with *infallible* certainty, of the degree of depravity to which the prisoners had attained, still those of the same degree of depravity would corrupt or harden each other. They would find themselves in the company of persons like themselves, and this idea would powerfully tend to remove the feelings of self condemnation.

The Pennsylvania Penitentiary for the eastern district, appears to me to promise better success. If I am correctly informed, the outer walls of the prison, enclose a circular area of ten acres. The prisoners are confined in separate apartments to each of which there is a small yard attached, but so constructed as to prevent the possibility of any communication between them. The cells and yards are arranged in lines, radiating from the centre, in which stands a building of sufficient elevation, completely to overlook the whole. The prisoners are to be blindfolded when brought within the outer walls, so that they can form no idea of what part of the establishment they are in. And they are not permitted to see any person, but those whose duty it is to visit them.

Here, secluded from the enjoyments of society as well as from the means of becoming still further corrupted or instructed in the dark mysteries of crime, and cut off also from the hope of escape, the probabilities of reformation must be greater than on any plan heretofore devised.

It will be seen at once, that on the Pennsylvania plan, the idea of profits from the labor of criminals, must be given up. Indeed it is a pity that such an idea ever was conceived. It is to this cause that we may principally ascribe the failure of the Penitentiary system, so far as it has failed to realize the hopes of its friends. Under the former system, when the whipping post and gallows were considered the safeguards of the public peace, no thought was entertained of deriving profits from convicts. The great object was to secure the peace of the community, and however ill-judged were the means employed for the purpose; still the object was correct. When the Penitentiary system

was adopted, the principles it embraced were so obviously correct that its supporters imagined it could do more than accomplish the legitimate objects of retributive justice. That it would not only prevent crime, and reform criminals, but become a source of revenue to the state. And as the desire of gain, is a predominating passion in the human mind, the construction and the internal police of the Penitentiaries were adapted to that purpose, until the primary objects of the institution, in some instances, have been totally abandoned.

But this is not the only injury that has been done to the Penitentiary system by its zealous friends. They have been too sanguine of its efficiency, and thus have raised the expectations of the public too high. A very slight acquaintance with human nature might convince us that some hardened individuals *will not* — cannot be reformed by any system of punishment whatever. A few recommitments of some hardened desperadoes is no evidence against the system. Yet we know that it has been attempted from circumstances of this kind, to produce a popular excitement against the Penitentiary system. And the attempt has actually succeeded in making proselytes, (among men who should have known better) to the barbarous doctrine of the whipping post and gallows. Men of talent and cultivated minds have been carried away with the sophistry of arguments founded on false premises.

Having suggested an idea, that is not peculiar to myself, that some men "cannot be reformed," I will stop a moment to anticipate an argument that may possibly be drawn from it, in favor of capital punishments. While men are free agents, and in the exercise of that free agency, reject the pure precepts and principles of the Gospel, it must be expected that some will set reformation at



defiance. But this is no warrant for capital punishments. For if it were admitted that it were justifiable to take the lives of those who cannot be reformed, it would irresistably follow, as a counterpart of the proposition, that it would not be right to take the lives of those who *might be* reformed—to cut off the opportunity which a merciful God is disposed to give to his creatures to prepare—but who are not yet prepared for eternity. But we do not possess the capacity of judging in such cases—of distinguishing between those who might—and those who cannot be reformed. How then dare we take upon ourselves an office so high—involving such awful consequences, and evidently without the qualification for it? It assumes a responsibility from which the reflecting mind must shrink.

We frequently find the sentence of death accompanied with serious admonition or exhortations from the judge. Without pretending to call in question the feelings from which these admonitions proceed, still to my mind there is something extremely incongruous in such exhibitions, when the whole proceedings are considered in connection. Perhaps in all cases, the judge, after impressively descanting on the guilt of the prisoner, urges the necessity of repentance, and a preparation for an awful eternity, and recommends him to Divine Mercy: setting forth the infinite goodness of God, his readiness to forgive—and hence inferring the certain possibility of the culprit's admission into heaven. All this, however correct in the abstract, forms a perfect contrast with the grand features of the proceedings. The admonition to repentance, enforced by the awful necessity for a preparation for the world to come, but illy accords with limiting the opportunity for that re-

pentance and preparation to a few days. This work, if effected at all, is entirely between God and the soul of the culprit. No human agency can effect it, nor can any human authority limit the time of its accomplishment.

There is but one source of moral excellence. And as that Divine source is pure, unmixed, and indivisible in itself, so the emanations from it bear the evidences of an intimate relation to each other, and to their Divine origin. But where is the affinity between the inexorable spirit of the law, under which the prisoner is to die, and the mercy of God that raises his hopes to heaven?

But leaving this deeply interesting subject, which I could not pass by without notice, I will return to the Penitentiary system in general. Of all the objections that have been advanced against it, none have had so much weight, and produced so strong an impulse in the public mind to resort again to the whipping post and the gallows, as the *expense* of the present system. The cry has been raised—and as it is a theme to which we are very sensitive, it has been repeated again and again by those who knew very little if any thing about it. I very much question whether there is one single individual that can tell the difference between what he pays for the punishment of crimes under the reformed system, and what he would pay if the system were abandoned. Indeed it is doubtful whether many of those who complain of the expense of our criminal jurisprudence, can tell their individual share of that expense; and would probably be surprised to learn that it was only *a few cents*. But whether it costs, individually, as much as a tooth pick or a pen knife—a gill of whiskey, or a twist of tobacco—the objection is perfectly contemptible, when compared with the magnitude of the objects in view.

It ought not to be expected that we, enlightened as we profess to be, should set so low a value on the feelings and lives of our fellow citizens. It is not a question for enlightened politicians to discuss, whether it will cost less to reform a man or to hang him? Nor is it the question what mode of punishment will cost least? If this were the case we might soon become the humble copyists of our aboriginal neighbours—and commit the whole process of retributive justice to the injured party or the nearest of kin, who might resort to the club or the tomahawk, according to the predominant feelings at the time. If *cheapness* is the great object, this system of punishment would probably stand unrivaled. It would strike off not only the expense of jails and penitentiaries, but of judges, juries and lawyers—nor would the retrenchment end here. It would silence the complaints against *long speeches* and *long sessions*, and put to rest the great question of *compensation*, whether *per diem* or *per annum*.

But who would be willing to run this mad career of economy? Our government was instituted, not as a money saving machine, but to secure the great objects of civil liberty and social happiness. By a reference to the *nature* of the social compact, an attempt was made to restore those rights which bigotry or despotism had wrested from mankind, but which the legitimate objects of civil government never required them to surrender.

Is a right or a wrong discrimination of these, that constitutes freedom

on the one hand, or tyranny on the other. In vain may we boast the excellence of our civil institutions, and arraign the principles of monarchical governments, if we lay our hands on the invaluable rights of man, rights which the objects of civil government do not require them to surrender—we are guilty of the same political sins which we charge upon others, though the degree, the objects, and the character of the agents may not be exactly the same.

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Extract of Governor Adair's Message, to the Legislature of Kentucky, 10th mo. 22d 1822.

The penitentiary system has been adopted by most of the North American republics. This general sanction is honorable to our country, and worthy the imitation of all civilized nations. It is no longer a question whether the system is of practical utility, and its introduction a blessing to mankind. It is progressively and widely extending its triumphant march. The principles on which it rests find easy converts and zealous advocates in every clime, where generous feelings and enlightened sentiments prevail, and the only enquiry among the friends of human happiness, freedom and reform, is, how can this benign invention be improved and perfected? Kentucky was among the first of the states that established a penitentiary, and her example has contributed to propitiate general approbation.

How strange, how lamentable an instance of the mutability of opinion, if she should be the first to abandon a system she has so successfully recommended! Yet the simple question which obtrudes itself, is, will you have a penitentiary? It is nugatory to amuse ourselves with flattering hopes of salutary amendments when

we are destitute of an adequate object to amend. I am not now urging upon your adoption a single improvement in the general system; but am driven to the melancholy supplication that you will not permit the system itself to perish. The existing establishment, in the best condition that the means afforded can place it, is merely a confined and ruinous work shop, necessarily deprived of every concomitant aid designed for the reformation of the convict, and, furnishing, within its walls in spite of every available precaution, the opportunities and incentives to the most contaminating associations and the promulgation of the most depraved principles. From such a place repentant virtue never can return. With the present increase of our population and in the existing state of society, such an institution is a curse: and the general assembly, in obedience to the force of circumstances, must very soon adapt to the wants of our actual condition or return to the bloody code of our fathers.

On a subject so momentous in its consequences to the most sacred rights of the community, I feel an extreme solicitude which I shall not pretend to disguise. But this solicitude does not arise in the slightest degree from a distrust of the justice and magnanimity of my country. To estimate this matter correctly, it is only necessary to consider it. This is not a money making, or a money saving project. It is a magnificent plan, devised by the spirit of philanthropy & approved by the profoundest wisdom, to accelerate the progress of civilization, to diminish the sufferings, and amend the morals of human kind. In the support of such a plan, on the successful termination of which is deeply staked the dignity of our race, no frigid speculations of abstract policy, no mercenary calculations of pecuniary profit, should retard the consummation of the noble design. The protection which every government owes

to its citizens, includes every practicable amelioration of their condition, and whatever may be the practice in arbitrary dominions, this is not a soil the blood of whose sons is to be weighed in the balance against gold.

In relation however to the cost of their support, the convicts in your penitentiary, considered as mere laborers fed at the public expense, have not been unprofitable during the last year. The price of the manufactured articles during that period, ending with the month of September, exceeds the entire expense of the institution. The whole of those articles cannot be vended at this place: and a large amount, including many articles manufactured during the several preceding years, remains unsold.

If the agent were authorised to distribute those for sale at the neighboring towns, or to dispose of them by auction at stated times and places, similar losses and inconveniences might, for the future be obviated.

For the Moral Advocate.

#### MILITARY GLORY.

There probably never was a military achievement that drew more applause than the victory of the Horatii over the Curiatii. The circumstances related by the historian are briefly these:

The inhabitants of Alba and Rome, animated by ambition, and, as usual, mutual complaints, took the field and were on the eve of a bloody battle. The Alban general, to prevent the effusion of blood, proposed to the Roman commander to refer the contest to three combatants of each side, and that empire should be the prize of the conquering party. The proposal was accepted. The Albans armed three brothers called the Curiatii. The Romans selected three sons of Horatius.

The historian represents the opposing combatants, as advancing to the affray with an intrepidity and ardor worthy to be held up as examples to



succeeding generations. The two armies, in breathless suspense and anxiety awaited the result of a combat on which their triumph or slavery depended.

The contest ended in the death of the three Albans, and two of the Romans. The surviving Roman, on dispatching the last of the three Albans exultingly told him: "Two have I sacrificed to the manes of my brothers—the third I will offer up to my country—that henceforth Rome may give laws to Alba."

That Rome might give laws to Alba! How monstrously absurd must it appear at this day, when we compare the consequences of that combat, with the object which was obtained by it! Not only five young men, the pride of their respective countries perished, but the surviving Roman, flushed with his conquest, plunged a poinard into the heart of his own sister, to whom one of the Curiatii was to have been married. She, on receiving the news of her lover's death, as might have been expected, was overwhelmed with grief. It was the dictate of nature that she should grieve. As her brother stabbed her to the heart, he bid her "Begone to thy lover, and carry him that degenerate passion which makes thee prefer a dead enemy to the glory of thy country."

This Roman exhibits the character of the Hero, without mixture. The martial spirit had acquired a predominance over every other passion or principle in his heart, and enables us to see how shocking it is, in its genuine character.

J.

## REPORT

### *On the Penitentiary System.*

(Continued from page 73.)

The State Prison of New-Hampshire has been erected but for a few years. The number of felons is not great, and yet the want of a division into classes is already perceptible.

Gov. Plumer, the late distinguished Chief Magistrate of the State, on whose sound and judicious opinion, the Committee place great reliance, and to which they shall again refer, observes that "effectual measures should be adopted, to separate, in the Penitentiary, old offenders from the young and inexperienced, otherwise the latter, instead of being reformed will become adepts in crimes; and when the term of their confinement expires, they will return to society, more wicked and abandoned, than when they left it."

Judge Woodberry, of the New-Hampshire Supreme Court; remarks: "The prisoners, according to the enormity of their crimes should be classed; and matched with some distinctive badge. They should, during the day, be kept more quiet and secluded from either society or conversation, and during the night wholly separated from each other."

The letter from the hon. Daniel Clusman one of the most distinguished lawyers in Vermont, and in New-England, and a careful and sound legislator, observes, when speaking of the Penitentiary in that state: "The prisoners are only exposed to corruption; a young man who has been detected and punished for the first crime he has committed, and who has no settled habits of vice, is confined with old and hardened offenders, and those will have an influence on the young mind. He will in a measure look up to them."

The Penitentiary in Maryland, and the one in Ohio, erected about six years ago, go on with an exhibition of the same radical defects. and although the State Prison in Connecticut is different from any other in the United States, yet Governor Wolcott remarks in his very interesting communication, which we shall more fully notice, "that it has been a defect in the establishment, that the means of discrimination between convicts of different degrees of enormity, do not

sufficiently exist." On this alarming error in the Penitentiary System, we trust that enough has been said in this place. Its existence and its tendency, require no further illustration here.

The want of room, is another defect that applies to several of the State Prisons, and is, in some measure, the result of their construction. In Philadelphia, New-York, Baltimore, and Charleston, it would have destroyed the ability to classify convicts, had it been a part of the penitentiary policy to have resorted to this policy. It has produced another evil next to the one last mentioned if not still more fatal—the exercise of the pardoning power. In no state has this defect been so alarming and disastrous as in our own. The Judges of our Supreme Court have actually recommended convicts to pardon, and the Governor of the state has, in innumerable instances, granted pardons to make room for new criminals. Want of a place to secure new offenders, rendered this baneful state of things absolutely necessary if the laws were administered at all. (w) In Pennsylvania, the most serious difficulties have arisen from the want of more extensive accommodations, and Massachusetts previous the erection of the state of Maine, and its separation from the parent state, and alteration of the Criminal Code, that places young offenders in the County prisons, great disadvantages arose from the same cause. In New-York and Pennsylvania, these evils will be diminished hereafter, by the erection of new prisons, although they here deserve much consideration among the causes that have produced the practical failure of the State Prison System.

We now come to a defect, that has been one of the radical causes of disappointment in our Penitentiary System, and one whose existence will ever defeat the most perfect Criminal Code that human wisdom can frame.

(w) Report of committee to New-York Senate, March 7, 1817.

We refer to the frequent exercise of the pardoning power. This evil, although most deeply felt by all the states, has been endured with the most fatal results whenever the Penitentiary System has been tried on a large scale. It has been found, to the last degree, pernicious in Pennsylvania, New-York, and Massachusetts. Unless more caution is hereafter exercised with regard to this suspension of justice, we may as well close and abandon our Penitentiaries so far as prevention of crimes is concerned.

In every department of law, there are certain fundamental maxims, that truth, experience, and universal assent, render sacred and unquestionable. Thus all jurists and legislators adopt the principle, that the certainty of punishment is the prevention of crimes. This was a favorite feature in the writings of Beccaria. It was laid down by Sir Samuel Romilly, one of the greatest lawyers which England ever had, that could punishment be reduced to absolute certainty, a very slight penalty, would prevent every crime that was the result of premeditation. And we might well ask, if any offence, of consequence, was ever committed where there was not a full conviction, in the mind of the perpetrator, that he should escape the grasp of justice? The felon does not weigh the gain of his deed, with the punishment which the law denounces against him, and strike the balance, but he connects together the acquisition and the belief of eluding justice. Would any man rob the mail of the United States if he knew that death was his certain doom? Would any man pass a five dollar bank note, if he knew that five years imprisonment would be his destiny? No one can rationally pretend it. What then is the effect of granting frequent pardons? Does it not go directly to diminish the certainty of punishments? A pardon disarms the law, and is a destruction of punishment. If pardons are often granted, what is their



consequence on the mind of public offenders? Not only do they calculate on the general belief of escape, but they reflect, if even that confidence should be ill-placed, they will be fit subjects of executive clemency, and thus is combined in their thoughts the double prospect of going unpunished. This, therefore, holds out a direct encouragement to the desperate and evil minded, and contravenes that vital requisite of every Criminal Code, on which the Marquis Beccarie, and every succeeding writer has laid so much stress. Besides, if the pardons are granted without due discrimination, there is extreme and barefaced injustice in the policy; and it is a sound maxim in jurisprudence, as well as in morals, that he who attempts to punish another for offending against justice, should himself be just.

This is the way to render justice a mockery, and weaken the respect of the community for the laws. Four or five hundred convicts are confined in a Penitentiary: some for robbery, burglary and swindling, and some for passing a five dollar note or stealing a garment. The robber, the burglar and the swindler are pardoned, and he who passes the note or takes the garment are kept in for months and years. What must be the reflection of convicts on such an administration of justice? This is no speculation: the most notorious felons have again, and again, been pardoned from our Penitentiaries, while the young and inexperienced culprits, for committing crimes of comparative petty magnitude, are kept in for years. Is this the way to render our prisons places of reform and amendment? Is this the way to render law and justice sacred in the eye of criminals? One of the great objects of punishment, is said by many writers, to be example, and the restraining consequences to flow from it. Example, to be effectual, should be uniform. It should not be severe and desolating in one case, and wholly destitute of force in ano-

ther. What beneficial effect can we expect from this source, when it is doubtful who will and who will not suffer after sentence? When it is questionable, whether the most flagrant, or most excusable offender will endure the heaviest punishment? Reasoning is unnecessary to illustrate the ruinous consequences of this abuse of executive justice. It strikes at the root, and contravenes the ends of all Criminal Codes.

This evil has not been felt in all the states. Its consequences have been most apparent in the states where Penitentiaries were early resorted to, and what is more to be regretted, want of room for the confinement of convicts, and not a regard for the constraining appeals of clemency, has been the moving cause, which has led to its existence. The state of New-York has unfortunately furnished the most striking and melancholy proof of the correctness of our remarks, of any state in the confederacy. We shall here refer to a report of certain commissioners, appointed to examine into the State Prison, relative to its expenditures. This document remarks, that "the Judges of the Supreme court have been obliged to recommend for pardon, and the executive to exercise his constitutional power of pardoning, merely for the purpose of making room for the reception of new offenders. The sentence of the law must, in the first instance be complied with; the convict must be received in the prison, and put to labour; but before his term of service has half expired, it has been found indispensable to get rid of him in order to make room for others, under similar sentences. The consequence has been, that, while on the one hand those, whose dispositions and habits have prepared them for the perpetration of crime, have been encouraged to go on and commit their depredations in the hope of at least partial if not absolute impunity, (for that portion of the community, no doubt, perfectly understand the subject, and know well the calculation they may make upon it)—on the other, the institution has been subjected to the disadvantage of continual change; by the time one set of workmen have been taught to labour, and



have been qualified to make some return for the expense they have occasioned, they are discharged from confinement, and a new set substituted in their place. And thus all the inconvenience and expense of preparing them for usefulness is constantly borne, and all the advantages expected to result from it almost as uniformly relinquished. On referring to the reports for the five years which have been mentioned, it is found that within that period, seven hundred and forty convicts have been pardoned and only seventy-seven discharged by the expiration of their sentences. And the number of pardons within the year just ended, is stated by the inspectors to have been even greater, and more disproportionate to the number of other discharges than in any former year. Nor will the force of this fact be in any degree impaired, by a consideration of the moral effects of these pardons upon the convicts themselves. Of all those who have, within the above period, been committed for second and third offences, about two thirds have been discharged from their former sentences by pardon. And of twenty-three, the whole number convicted of second and third offences in the year last reported, (1815) twenty had been previously pardoned, and only three discharged by the ordinary course of law." (x)

Since this report was made, some mitigation of the evil has existed, in consequence of the advantages afforded by the Auburn Penitentiary. But still the evil is among us. Great numbers are annually pardoned out of the State Prison in the city of New-York, on the grounds stated in the report alluded to, and sometimes we fear from a mistaken policy of displaying principles of humanity. It is to be regretted that many of our most influential citizens are constantly found joining in recommendations for pardons to the executive, without reflection on the impropriety of defeating the purpose of the laws; and it is more regretted, that jurors, after they have convicted a felon under the obligations and solemnities of an oath, turn round and join a petition that renders

their own verdict a nullity, and the forms of justice a fruitless ceremony. (y) Whoever attends the criminal courts of this State, and more particularly the court of General session of the city and county of New-York, may perceive the palpable tendency of a frequent exercise of the pardoning power. Criminals are constantly arraigned, tried and convicted, who a few months, and oftentimes a few days before, were dismissed from prison by a pardon from the governor. We shall here present the views and sentiments of one of our statesmen on this point, who has spoken in words more forcible than any we can adopt, and whose remarks are entitled to peculiar respect from his sound experience as a lawyer. We refer to the speech of Ogden Edwards, Esq. in the late Convention of this State. When speaking of the effect of granting pardons, he said, "that by the indiscreet use of the pardoning power, the administration of justice had become relaxed; that if not checked, we should soon have to erect State prisons in perhaps every county in the State. The exercise of the power of pardoning is pleasant, it is humane, it is agreeable to the best feelings of the human heart, but sad experience has taught, that the interests of the community require, that the civil arm should be brought to bear with power upon malefactors. It was a remark of an eminent Judge, now gone down to the grave, that mercy to the criminal was cruelty to the State. If you exercise this pardoning power to the extent that has been done, what will be the consequences? The rest of society will be exposed to the depredations of villains. The laws should, be exercised with a strong and resolute hand. Our Penal Code is mild; and the manner of punishment is meted out to all in the proportion they deserve. If a reasonable doubt exists, the felon is acquitted. But should he be convicted, there is still a discretion reposed in the court for his benefit. Why has the pardoning power been so fully and frequently exercised? Why are our prison doors so often thrown open, and villains let loose to prowl upon society? It is because our executive

(x) Report of Commissioners to the Legislature of New-York, 1817.

(y) See Annual Report, &c.

has been too much influenced by feelings of humanity. The governor must nerve himself against their solicitations, and act with a consciousness that he must account to the people for the manner in which he uses this pardoning power. Even in Great-Britain, a pardon never passes the great seal, without containing a recital of the causes for which it is extended. But in this State they are granted without a single reason for it. And after the inhabitants of a country have exercised their vigilance in detecting the felon; after the jurors have convicted, and judges sentenced him, the interposing hand of the executive rescues him from punishment. Unless we abolish this system, we may as well open the prison doors at once. They enter novices in iniquity, and remain long enough to become professors of all its arts. This is the practical operation of the system, and unless we nerve ourselves against it, sooner or later the rights of the people of this State will be held by a moral precarious tenure. This sickly sympathy is wearing away the foundation of our laws. Placed here as one of the guardians of the rights and privileges of the people. I wish to have such a provision inserted in the Constitution, as shall prove an effectual check upon vice." (To be Continued.)

### Mathematical Questions.

If wantonly or maliciously taking the life of a brother, be an infamous crime in a private citizen—how high in office must a man be exalted to render such an act deserving of praise?

If the laws of God require every Christian to love his neighbor as himself, to love even his enemies, and not to render evil for evil—how many Christians must be associated in war, to supersede or suspend the authority of the Divine precepts?

If love is the fulfilling of the law, or all which God requires of men one towards another—what must be the elevation of a ruler who possesses a right to command God's children of one country, to hate and destroy their brethren of another country? *Friend of Peace.*

### EDITORIAL NOTICE.

The late subscribers for the Moral

Advocate have generally requested it from the beginning. As the patronage of the work at the commencement was inconsiderable, the number struck off at the beginning was not large. As the list of subscribers increased I became convinced I had been too economical in the article of paper. More surplus copies were struck off and four numbers have been reprinted to complete the files.

It has now become necessary to reprint the whole of the first volume, As this cannot be done without considerable expense and labor the editor relies on those who are favorable to the cause, for remuneration.

The new edition of the first volume will correspond in the size of the page with the second. It will be forwarded in sheets at the regular price of \$1. or neatly bound and lettered at \$1 50, or half bound and lettered at \$1 37 1-2.

It will be neatly printed, on fine paper.

The subscribers in all cases will incur the expense of the transmission, but the editor will guarantee their safety.

An article addressed to the Ministers of the Gospel of every denomination, was prepared for the present number, but being too long to insert entire, without the exclusion of other articles, already in type, I have determined, rather than *continue* it, to give it in a supplement next week—at which time a Prospectus will be forwarded to agents.

My absence on the late journey, I hope will be regarded as a sufficient apology, for the delay of the present number, beyond the regular time. Ed.